IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/616,195
First Named Inventor:	Michael Zimmerman
Assignee:	The Go Daddy Group, Inc.
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Art Unit:	2157
Examiner:	Sall, El Hadji Malick
Docket No.:	0007
Customer No.:	43,699
Title:	**TURNKEY RESELLER PROGRAM FOR REGISTERING DOMAIN NAMES**

APPEAL BRIEF

I. Real Party in Interest
> The Go Daddy Group, Inc.

II. Related Appeals and Interferences
> Patent Application 10/616,005 (Appellant's Docket #0008), which shares disclosed subject matter, filing date and real party in interest with the present application, is presently on appeal before the Board. The Appeal Brief for Patent Application 10/616,005 was recently filed on January 11, 2008.

III. Status of Claims
> Claims 1-20 are pending and stand finally rejected. All rejections are presently appealed.

IV. Status of Amendments
> In response to the Final Office Action, the Appellants submitted non-substantive amendments to the title and claims, which were entered by the Examiner.

V. Summary of Claimed Subject Matter

The claimed subject matter of independent claims 1, 6, 11, and 16 and dependent claims 2-5, 7-10, 12-15 and 17-20 is generally directed to systems and methods for incorporating Resellers into the process of registering domain names with an accredited Registry and is described generally in the subject patent application from pages 4 to 6. Illustrative system and process embodiments for a Turnkey Reseller Program are specifically described from pages 13 to 20. Example systems for practicing the invention are shown in Figs. 2, 3 and 5. Example methods for practicing the invention are shown in Figs. 3 and 5. The present invention allows a Reseller to register domain names through a Registrar via a Turnkey Reseller Program.

Independent Claim 1

Independent claim 1 is directed to a reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar, comprising: A) means for accepting a plurality of Resellers into a reseller program **(page 12, lines 6-7; page 13, ¶ 1; page 14, ¶ 2 - page 16, ¶ 2; Figs. 2-3 and 5-13 and accompanying disclosure)**; B) means for creating a registrar web site for registering domain names with an appropriate Registry **(page 12, ¶ 3; page 13, ¶ 2; page16, ¶ 3 - page 18, ¶ 1; Figs. 2-3, 5 and 14-20 and accompanying disclosure)**; C) means for allowing a plurality of Customers to register one or more domain names via the registrar web site, wherein at least one of the plurality of Customers was guided to the registrar web site from the actions of one of the plurality of Resellers **(page 13, ¶ 1-2; page 14, line1-3 and 12-13; page 17, ¶ 3; page 18, ¶ 1-2; page 18, lines 26-27; Figs. 2-3, 5, 21a, 22a and 33a-33b and accompanying disclosure)**; D) means for collecting a fee from each Customer that registers a domain name **(page 14, lines 1-3; Figs. 3, 5 and 22a and accompanying disclosure)**; and E) means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name **(page 12, lines 6-7; page 14, lines 3-6; page 15, ¶ 3; Figs. 3, 5, 9, 22a and 26 and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 2

      Dependent claim 2 is directed to the reseller program of claim 1, wherein the registrar web site has the ability to accept domain names from the Customers, accept information regarding the Customers, check on availability of the domain names, collect a fee from the Customers, register available domain names for the Customers and compensate the plurality of Resellers based on the actions of the Customers **(page 12, ¶¶ 2-3; page 13, ¶¶ 1-2; page 14, lines 1-3; page 14, ¶ 1; Figs. 1-3, 5, 7-13, 21a, 22a-22d, 25-29 and 31-33a and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 3

      Dependent claim 3 is directed to the reseller program of claim 1, wherein the actions by one of the plurality of Resellers include advertisement **(page 12 ¶ 3; page 13 ¶ 1 and 3; Figs. 14-17 and 33a-33b and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 4

      Dependent claim 4 is directed to the reseller program of claim 1, further including means to register domain names via a proxy service, wherein proxy contact information is made publicly available while the Customer receives legal rights in the domain name **(page 18, ¶ 2-3; Figs. 21a-21b, 22c and 33b and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 5

Dependent claim 2 is directed to the reseller program of claim 1, wherein the actions by one of the plurality of Resellers include creating a link to the registrar web site from another web site **(page 13, ¶ 3; page 14, ¶ 2)**.

Independent Claim 6

Independent claim 6 is directed to a reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar, comprising: A) a registrar web site adapted for receiving selected domain names from a plurality of Customers and for registering the selected domain names with an appropriate Registry **(page 12, ¶ 3; page 13, ¶ 2, Figs. 2-3, 5, 21a, 22a and 33a-33b and accompanying disclosure)**; and B) an administration web site adapted for allowing Resellers to enter the reseller program and allowing each Reseller to customize the registrar web site for their Customers **(page 14, ¶ 2; page16, ¶ 3 - page 18, ¶ 1; Figs. 2-3 and 5-20 and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 7

Dependent claim 7 is directed to the reseller program of claim 6, wherein the registrar web site has the ability to accept domain names from the Customers, accept information regarding the Customers, check on availability of the domain names, collect a fee from the Customers, register available domain names for the Customers, associate Customers with a Reseller and compensate the plurality of Resellers based on the actions of their associated Customers **(page 12, ¶¶ 2-3; page 13, ¶¶ 1-2; page 14, lines 1-3; page 14, ¶ 1; Figs. 1-3, 5, 7-13, 21a, 22a-22d, 25-29 and 31-33a and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 8

Dependent claim 8 is directed to the reseller program of claim 6, wherein the administration web site offers the option to the Resellers to receive electronic payments from the Registrar based on activities of the Resellers' Customers **(page 14, ¶ 2; page 15, ¶ 3; page 19, ¶ 2; Figs. 1-3, 9 and 22a-22e and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 9

Dependent claim 9 is directed to the reseller program of claim 6, wherein the administration web site offers the option to the Resellers to offer registering domain names via a proxy service, wherein proxy contact information is made publicly available while the Customer receives legal rights in the domain name **(page 18, ¶ 2-3; Figs. 21a-21b, 22c and 33b and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 10

Dependent claim 10 is directed to the reseller program of claim 6, wherein the administration web site offers the option to the Reseller to display a report showing commission payments during selected time periods **(page 19, ¶ 5 - page 20 ¶ 1; Figs. 25, 26 and accompanying disclosure)**.

Independent Claim 11

Independent claim 11 is directed to a process for allowing a plurality of Customers to register one or more domain names via a reseller program, comprising the steps of: A) accepting a plurality of Resellers into a reseller program **(page 12, lines 6-7; page 13, ¶ 1; page 14, ¶ 2 - page 16, ¶ 2; Figs. 2-3 and 5-13 and accompanying disclosure)**; B) creating a registrar web site for registering domain names with an appropriate Registry **(page 12, ¶ 3; page 13, ¶ 2; page16, ¶ 3 - page 18, ¶ 1; Figs. 2-3, 5 and 14-20 and accompanying disclosure)**; C) allowing a plurality of Customers to register one or more domain names via the web site, wherein at least one of the plurality of Customers was guided to the web site from actions by one of the plurality of Resellers **(page 13, ¶ 1-2; page 14, lines 1-3 and 12-13; page 17, ¶ 3; page 18, ¶ 1-2; page 18, lines 26-27; Figs. 2-3, 5, 21a, 22a and 33a-33b and accompanying disclosure)**; D) collecting a fee from each Customer that registers a domain name **(page 14, lines 1-3; Figs. 3, 5 and 22a and accompanying disclosure)**; and E) compensating each Reseller that guided a Customer to the web site that registered a domain name **(page 12, lines 6-7; page 14, lines 3-6; page 15, ¶ 3; Figs. 3, 5, 9, 22a and 26 and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 12

Dependent claim 12 is directed to the process of claim 11, wherein the registrar web site has the ability to accept domain names from the Customers, accept information regarding the Customers, check on availability of the domain names, collect a fee from the Customers, register available domain names for the Customers and compensate the plurality of Resellers **(page 12, ¶¶ 2-3; page 13, ¶¶ 1-2; page 14, lines 1-3; page 14, ¶ 1; Figs. 1-3, 5, 7-13, 21a, 22a-22d, 25-29 and 31-33a and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 13

Dependent claim 13 is directed to the process of claim 11, further including the step of allowing domain names to be registered via a proxy service having contact information, wherein the proxy service contact information is made publicly available while the Customer receives legal rights in the domain name **(page 18, ¶ 2-3; Figs. 21a-21b, 22c and 33b and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 14

Dependent claim 14 is directed to the process of claim 11, wherein the actions by one of the plurality of Resellers include placement of the registrar web site in a search engine **(page 13, ¶ 3 to last line; page 19 ¶ 5 - page 20 ¶ 1)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 15

Dependent claim 15 is directed to the process of claim 11, wherein the actions by one of the plurality of Resellers include creating a link to the Registrar web site from another web site **(page 13, ¶ 3; page 14, ¶ 2)**.

Independent Claim 16

Independent claim 16 is directed to a process for allowing a plurality of Customers to register one or more domain names via a turnkey reseller program. comprising: A) creating a registrar web site adapted for registering domain names with an appropriate Registry **(page 12, ¶ 3; page 13, ¶ 1-2; page16, ¶ 3 - page 18, ¶ 1; Figs. 2-3, 5 and 14-20 and accompanying disclosure)**; B) creating an administration web site adapted for allowing Resellers to enter the turnkey reseller program and allowing each Reseller to customize the registrar web site for their Customers **(page 12, lines 6-7; page 13, ¶ 1 - page 18, ¶ 1; Figs. 2-3 and 5-20 and accompanying disclosure)**; C) registering a Reseller into the turnkey reseller program **(page 12, lines 6-7; page 13, ¶ 1; page 14, ¶ 2 - page 16, ¶ 2; Figs. 2-3 and 5-13 and accompanying disclosure)**; D) selling products or services to a Customer of the Reseller **(page 13, ¶ 2; page16, ¶ 3 - page 18, ¶ 1; page 19, ¶ 1; Figs. 2-3, 5 and 21a-21c and accompanying disclosure)**; and E) compensating the Reseller based on the products or services purchased by the Customer **(page 12, lines 6-7; page 14, lines 3-6; page 15, ¶ 3; page 19, ¶ 2; Figs. 3, 5, 9, 22a-22e and 26 and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 17

Dependent claim 17 is directed to the process of claim 16, wherein the registrar web site has the ability to accept domain names from Customers, accept information regarding Customers, check on availability of the domain names accepted from Customers, collect a fee from Customers, register available domain names for Customers, associate Customers with a Reseller and compensate the plurality of Resellers based on the actions of their associated Customers **(page 12, ¶¶ 2-3; page 13, ¶¶ 1-2; page 14, lines 1-3; page 14, ¶ 1; Figs. 1-3, 5, 7-13, 21a, 22a-22d, 25-29 and 31-33a and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 18

       Dependent claim 18 is directed to the process of claim 16, wherein the administration web site offers the option to the Resellers to receive electronic payments from the Registrar based on activities of their associated Customers **(page 14, ¶ 2; page 15, ¶ 3; page 19, ¶ 2; Figs. 1-3, 9 and 22a-22e and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 19

       Dependent claim 19 is directed to the process of claim 16, wherein the administration web site offers the option to the Resellers to offer registering domain names via a proxy service, wherein proxy contact information is made publicly available while the Customer receives legal rights in the domain name **(page 18, ¶ 2-3; Figs. 21a-21b, 22c and 33b and accompanying disclosure)**.

The following information from the specification is provided as requested by the Examiner in response to the Examiner's instruction that "each dependent claim argued separately must be mapped."

Dependent Claim 20

       Dependent claim 20 is directed to the process of claim 16, wherein the administration web site offers the option to the Reseller to display a report showing commission payments during selected time periods **(page 19 ¶ 5 - page 20 ¶ 1; Figs. 25, 26 and accompanying disclosure)**.

VI. Grounds of Rejection to be Reviewed on Appeal

Whether claims 1-20 are unpatentable under 35 U.S.C. § 103(a) over **Bayles** (U.S. Patent No. 7,039,697) in view of **Vaidyanathan** et al. (U.S. Publication No. 2002/0138291).

VII. Argument

A. The Examiner incorrectly rejected claims 1-10 under 35 U.S.C. § 101 based on an erroneous interpretation of the phrase "a reseller program"

In the Final Rejection dated August 9, 2007 (Final OA), the examiner rejected claims 1-10, asserting that "*a reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar ...*" must be embedded in a computer readable medium to be statutory. The examiner's interpretation of the phrase "a reseller program" is incorrect. The original specification defines "reseller program" as follows: "*reseller programs utilize Resellers to assist in increasing the numbers of Customers for the Registrar in exchange for compensation to the Resellers*" (Specification as filed, page 12, lines 6-7; Shown below as Image 1).

This definition demonstrates that "reseller program" is not a computer or software program as interpreted by the examiner, and thus is not required to be embedded in a computer readable medium. As such, the Appellants respectfully requests that the rejection of claims 1-10 under 35 U.S.C. § 101 be dismissed.

> The reseller programs utilize Resellers to assist in increasing the number of Customers for the Registrar in exchange for compensation to the Resellers. The present invention has two

Image 1. Specification as filed, page 12, lines 6-7. (emphasis added)

B. The Examiner failed to establish *prima facie* obviousness under 35 U.S.C. § 103(a) because the claimed limitations are neither disclosed nor suggested by Bayles or Vaidyanathan.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. MPEP § 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Furthermore, all words in a claim must be considered in judging the patentability of that claim against the prior art. MPEP § 2143.03; *In re Wilson*, 424 F. 2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Because **Bayles** in view of **Vaidyanathan** neither discloses nor suggests all of the claimed limitations, all claims are patentable over the prior art under § 103.

In both the Final OA and the Non-Final Rejection dated February 8, 2007 (Non-Final OA), the Examiner addressed the rejection of claims in groups based on common elements within the claims rather than by individual claims themselves. In the interest of addressing the claims as rejected by the examiner and to avoid redundancy in presented arguments, the Appellants will present arguments below based on these groupings. However, because this broad approach caused the examiner to overlook certain limitations in some claims[1], specific limitations for individual claims will also be addressed within the Appellants' groupings of arguments.

It should be noted that these groupings of arguments should not imply groupings which should stand or fall together. For purposes of appeal, any groups which stand or fall together should be based on independent claims rather than by either the groupings by which the Examiner rejected these claims or similar groupings by which the Appellants respond to them.

1. Independent claims 1 and 11

Independent claim 1 is directed to a reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar, comprising:

    (A)   means for accepting a plurality of Resellers into a reseller program;

    (B)   means for creating a registrar web site for registering domain names with an appropriate Registry;

    (C)   means for allowing a plurality of Customers to register one or more domain names via the registrar web site, wherein at least one of the plurality of Customers was guided to the registrar web site from actions by one of the plurality of Resellers;

    (D)   means for collecting a fee from each Customer that registers a domain name; and

    (E)   means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name.

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[1] For example, in grouping the rejection of claims 1, 6, 11 and 16, element B in claims 6 and 16 is *never addressed* in either the Non-Final OA or the Final OA.

Independent claim 11 is directed to a process for allowing a plurality of Customers to register one or more domain names via a reseller program, comprising the steps of:

(A)   accepting a plurality of Resellers into a reseller program;;

(B)   creating a registrar web site for registering domain names with an appropriate Registry;

(C)   allowing a plurality of Customers to register one or more domain names via the web site, wherein at least one of the plurality of Customers was guided to the web site from actions by one of the plurality of Resellers;

(D)   collecting a fee from each Customer that registers a domain name; and

(E)   compensating each Reseller that guided a Customer to the web site that registered a domain name.

The prior art cited by the Examiner fails to disclose or suggest limitations in elements C, and E of either claim 1 or claim 11. Accordingly, the Examiner's rejection should be dismissed.

a.   Element C

Bayles does not teach a Customer being guided to a registrar web site from actions by a Reseller. The Final OA states that **Bayles** teaches "*at least one of the plurality of Customers was guided to the registrar web site from actions by one of the plurality of Resellers.*" (Final OA page 4, lines 6-9; shown below as Image 2) The relevant section of **Bayles** cited in both the Non-Final OA and the Final OA (Column 6, lines 26-28; shown below as Image 3), shows no teaching or inherent teaching that a Customer may be guided to a registrar web site from actions by a Reseller.

The Examiner's addition in the Final OA of an additional reference from **Bayles** (Column 5, lines 29-46; shown below as Image 4), also does not teach a Customer being guided to a registrar web site from actions by a Reseller. The cited portion of **Bayles** teaches a retailer offering services to a customer through a web site, a broad concept which is already known in the art. This is not equivalent, however, to a Customer being guided to a registrar web site from actions by a Reseller, because no mention is made anywhere in this citation (or indeed anywhere in the **Bayles** reference) to a Customer being guided anywhere, let alone to a registrar's web site from actions by a Reseller.

> C) means for allowing a plurality of Customers to register one or more domain names via the registrar web site, wherein <u>at least one of the plurality of Customers was guided to the registrar web site from actions by one of the plurality of Resellers (column 6, lines 26-28; column 5,lines 29-46)</u>;

Image 2. Final OA, page 4, lines 11-14. (emphasis added)

> independent business tool. <u>Primary customers of a business employing the present invention would be domain name registrars and resellers (such as in a thick registry system).</u>

Image 3. Bayles, Column 6 lines 26-28. (emphasis added)

> According to the present invention, any and all domain name retailers, such as existing registrars, can participate much more simply in providing monitor and acquire domain name services. The retailer can still <u>offer such services to its customers</u> under the new model, <u>generally through its Web site</u>. Customers can sign up to have the status of a desired name monitored and the name acquired or re-acquired automatically. The retailer no longer needs to perform the monitoring and acquiring steps itself. Rather, the retailer is acting like a reseller of these services. The services are actually provided by a single (i.e., only one is permitted per registry) intermediary entity or software routine implemented at the registry. The intermediary, or the registry implementing software consistent with the present invention, maintains databases of all domain names for which any "retailer" requests monitoring or acquisition on behalf of its customers; together with information identifying the customer.

Image 4. Bayles, Column 5 lines 29-46.(emphasis added)

b. Element E

Vaidyanathan does not teach means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name. The Final OA states that **Vaidyanathan** teaches "*means for compensating each Reseller that guided a customer to the*

registrar web site that registered a domain name." (Final OA page 4, lines 14-16; shown below as Image 4). The relevant references within **Vaidyanathan** cited in the Final OA (Figure 2; shown below as Image 5, and Paragraph [0019] shown below as Image 6) do not teach means for compensating each <u>Reseller that guided a Customer to a registrar web site that registered a domain name</u> as stated in the Final OA on page 4. As a preliminary matter, **Vaidyanathan** does not even disclose a "registrar web site" or registering a "domain name." In addition, there is no mention of a Reseller that "guided" a Customer anywhere, let alone a registrar web site.

Because at least the limitations taught in elements C and E of claims 1 and 11 are not taught by the prior art, the Appellants respectfully requests the dismissal of the rejection of independent claim 1 and 11 and their dependent claims 2-5 and 12-15 respectively.

> However, Vaid teaches digital file marketplace. <u>Vaid teaches means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name (figure 2; page 2, [0019]).</u>

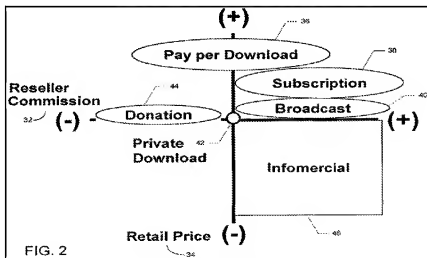Image 4. Final OA, page 4 lines 14-16. (emphasis added)

Image 5. Vaidanathan, FIG. 2.

> [0019] According to the present invention, the market-place 10 allows the content owners 14 to set both the retail price charged to the consumer 16, as well as a commission paid to the reseller 15. The marketplace 10 generates rev-enue by charging the content owners 14 transaction fees. Thus, when the consumer 16 downloads a file 12, the consumer 16 is charged the retail price set by the owner. The transaction fee charged by the marketplace and any reseller commission is then subtracted from the retail price collected from the consumer 16. The marketplace 10 then transfers any remaining money to the content owner 14 as payment.

Image 6. Vaidanathan, Paragraph 19.

2. Dependent Claims 2-5 and 12-15

Claims 2-5 depend upon claim 1, for which the Appellants believe the rejection should be dismissed and claims 12-15 depend upon claim 11, for which the Appellants also believe the rejection should be dismissed. Thus, the Appellants respectfully request that the board dismiss the rejections for claims 2-5 and 12-15.

3. Independent claims 6 and 16

Independent claim 6 is directed to a reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar, comprising:

A) a registrar web site adapted for receiving selected domain names from a plurality of Customers and for registering the selected domain names with an appropriate Registry; and

B) an administration web site adapted for allowing Resellers to enter the reseller program and allowing each Reseller to customize the registrar web site for their Customers.

Independent claim 16 is directed to a process for allowing a plurality of Customers to register one or more domain names via a turnkey reseller program comprising:

A) creating a registrar web site adapted for registering domain names with an appropriate Registry;

B) creating an administration web site adapted for allowing Resellers to enter the turnkey reseller program and allowing each Reseller to customize the registrar web site for their Customers;

C) registering a Reseller into the turnkey reseller program;

D) selling products or services to a Customer of the Reseller; and

E) compensating the Reseller based on the products or services purchased by the Customer.

The prior art cited by the Examiner fails to disclose or suggest limitations in element B of claims 6 and 16. Accordingly, the Examiner's rejection should be dismissed.

a. Element B

Bayles and **Vaidyanathan** do not teach an administration web site adapted for allowing Resellers to enter the reseller program. As previously mentioned, claims 1, 6, 11 and 16 were rejected together as a group based on common elements. Thus, as a preliminary matter, claims 6 and 16 were never individually addressed, and the limitations found in element B of independent claims 6 and 16 were *not addressed in this analysis or at any other point in either the Non-Final OA or the Final OA*.

Notwithstanding this oversight, neither **Bayles** nor **Vaidyanathan** disclose an administration web site that allows Resellers to enter a reseller program. In fact, neither **Bayles** nor **Vaidyanathan** ever mention a reseller program, let alone an administration web site that allows Resellers to enter a reseller program. **Bayles** and **Vaidyanathan** also lack any teaching of an administration web site.

The Examiner admits on page 6 of the Final OA that **Bayles** fails to teach the administration web site and related elements (Final OA Page 6, line 8; shown below as image 7). Appellants agree with this analysis. Neither **Bayles** nor **Vaidyanathan** disclose an administration web site that allows Resellers to customize registrar web site for their Customers.

The Appellants respectfully disagrees, however, with the Examiner's analysis that **Vaidyanathan** teaches the administration web site (Final OA Page 6, line 11; shown below as Image 8), or any elements related to it.[2]

As already established, any reference to the administration web site is erroneous, since no administration web site is taught in either **Bayles** or **Vaidyanathan**. In addition, the terms "administration" and "customize," clearly claimed in element B of claim 6, simply do not exist in either reference, let alone in the context of an administration web site that allows Resellers to customize the registrar web site for their Customers.

Since no reference to a reseller program or an administration web site that allows Resellers to customize the registrar web site for their Customers has been established in the prior art, the Appellants respectfully requests that the rejection of independent claims 6 and 16, along with their dependent claims 7-10 and 17-20 be dismissed.

Bayles <u>fails to teach</u> explicitly <u>the administration web site</u>

Image 7. Final OA, page 6, line 8. (emphasis added)

4. Dependent Claims 7, 9, 17 and 19

Claims 7 and 9 depend upon claim 6, for which the Appellants believe the rejection should be dismissed and claims 17 and 19 depend upon claim 16, for which the Appellants also believe the rejection should be dismissed. Thus, the Appellants respectfully request that the board dismiss the rejections for claims 7, 9, 17 and 19.

5. Dependent Claims 8, 10, 18 and 20

Claims 8 and 10 depend upon claim 6, for which the Appellants believe the rejection should be dismissed and claims 18 and 20 depend upon claim 16, for which the Appellants also believe the rejection should be dismissed. Thus, the Appellants respectfully request that the board dismiss the rejections for claims 8, 10, 18 and 20. Additionally, claims 8, 10, 18 and 20 should have their respective rejections independently dismissed, since the prior art cited by the Examiner fails to disclose or suggest limitations in the elements of claims 8, 10, 18 and 20.

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[2] The analysis of claims 10 and 20 show that elements related to the administration web site are also not taught in the prior art as argued by the Examiner.

In the analysis of claims 8, 10, 18 and 20 in both rejections, the Examiner refers to "*the administration web site*" in relation to various related elements (Final OA Page 6, line 8; shown above as Image 7; Final OA Page 6, line 11; shown below as Image 8). As previously established, no reference is shown that discloses an administration web site claimed in element B of claim 6, and no analysis is made by the examiner relating to this specific element. Indeed, the key terms "administration" and "customize" claimed in the original and amended claims, do not exist in either reference.

By referring to an administration web site which the Examiner has not shown prior art for, and does not exist in the cited prior art, the Examiner is referring back to something not previously established, analogous to an antecedent basis problem. The Examiner, presumably recognizing that the references lacked an administration web site, seems to have assumed such an element (though none exists in either **Bayles** or **Vaidyanathan**) to reject claims 8, 10, 18 and 20.

Dependent claim 10 is directed to the reseller program of claim 6, wherein the administration web site offers the option to the Reseller to display a report showing commission payments during selected time periods.

Contrary to the Examiner's assertion on page 7 of the Final OA, **Vaidyanathan** does not disclose "*the option to the Reseller to display a report showing commission payments during selected time periods.*" In addition to lacking the terms "administration" and "customize," the phrase "a report" is also lacking in the **Vaidyanathan** reference. These concepts are not disclosed or suggested anywhere in the reference.

> However, Vaid teaches the administration web site

Image 8. Final OA, Page 6 line 11. (emphasis added)

C. The obviousness rejection should be withdrawn for claims 1 and 11 (and thus dependent claims 2-5 and 12-15) because Vaidyanathan teaches away from the claimed process because it teaches compensating a Reseller for downloading files from the Reseller's own web site.

In the Final OA, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine **Bayles** with **Vaidyanathan** to meet the claimed limitations. The suggested combinations, however, are improper for the following reasons.

1. Teaching away

The Examiner uses the teachings in **Bayles** and **Vaidyanathan** to disclose the claim language of:

Claim 1, Element E (Final OA Page 4 Lines 11-15; shown below as Image 9)

    (E) means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name.

Claim 11, Element E (Final OA Page 4 Lines 11-15; shown below as Image 9)

    (E) compensating each Reseller that guided a Customer to the web site that registered a domain name.

a. Compensating resellers

The Examiner states that "*Bayles fails to teach explicitly E) means for compensating each Reseller that guided a Customer to the registrar web site.*" The Appellants agree with this analysis. However, the most relevant portion of the **Vaidyanathan** citation (Paragraph [0019]; shown as Image 6 above) merely teaches "*when the consumer 16 downloads a file 12, the consumer 16 is charged the retail price set by the owner. The transaction fee charged by the marketplace and any reseller commission is then subtracted from the retail price collected from the consumer 16.*" This is a means of compensating resellers known in the art, but does not teach "*compensating each Reseller that guided a Customer to the ... web site.*"

b. Relevant teachings teach away from claimed matter

Instead of <u>guiding</u> Customers to a registrar web site, **Vaidyanathan** teaches downloading files from the Resellers' <u>own</u> web sites. This can be seen in **Vaidyanathan**'s abstract (second to last sentence; shown below as Image 10) where it states "*[i]f the second user [Customer] downloads the particular file from the third party website [Reseller's website], then the first user [Reseller] is paid the reseller commission set for the file*" In addition, the last sentence in paragraph [0017] (shown below as Image 11) states "*[r]esellers are third parties who also offer the files 12 to the public on a third party website.*" Thus, Resellers are paid for downloading files to Customers from their <u>own</u> web sites, not for <u>guiding</u> Customers to a registrar web site.

Therefore, not only does **Vaidyanathan** fail to teach <u>guiding</u> customers to a registrar web site, it teaches away from claims 1 and 11 by teaching the process of downloading files to its Customers from the Resellers' <u>own</u> third party web site. Simply put, Resellers downloading

files to Customers from their own web sites does not teach the claim limitation of Resellers _guiding_ Customers to a registrar web site. Thus, not every element in claims 1 and 11 (and their dependent claims 2-5 and 12-15) is disclosed, therefore claims 1-5 and 11-15 should be allowed.

> Bayles _fails to teach_ explicitly E) means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name.
>
> However, Vaid teaches digital file marketplace. Vaid teaches means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name (figure 2; page 2, [0019]).

Image 9. Final OA, Page 4 lines 11-15. (emphasis added)

> file. If the second user downloads the particular file from the third party website, then the first user is paid the reseller commission set for the file. In addition, the content owner is

Image 10. Vaidyanathan Abstract, next to last sentence. (emphasis added)

> [0017] The present invention provides an electronic marketplace for the buying and selling of digital files, and a financial pricing model for the same. **FIG. 1** is a block diagram illustrating an electronic marketplace for buying and selling digital files in accordance with a preferred embodiment of the present invention. In a preferred embodiment, the digital file marketplace **10** is a website on the Internet that matches the digital files **12** shared by content owners **14** with potential consumers **16**. The content owners **14** share their digital files **12** by posting the files **12** on the marketplace **10** via line **20**. Example type of content files **12** may include audio files, cell phone ring tones, video files, news articles and online magazines, image files, and confidential documents, for instance. And examples of content owners **14** include shareware publishers, musicians, artists and designers. Resellers **15** are third parties who also offer the files **12** to the public on a third party website.

Image 11. Vaidianathan, Paragraph 17. (emphasis added)

c. Failure to respond

MPEP 707.07(f) directs that the Examiner "_take note of the applicant's argument and answer the substance of it_" The argument in the previous section b was presented in response to

the Non-Final OA. However, the Examiner's only response to this argument was to restate the content of Paragraph [0019], and restate the Examiner's previous argument.

It is respectfully submitted that reproducing the text cited in a rejection, and the text of the rejection itself does not constitute a "*clear explanation of all actions taken by the examiner during the prosecution of an application*" as required by MPEP 707.07(f). The Appellants respectfully submit that the Examiner's lack of response in this issue constitutes reversible error and requests the allowance of claims 1-20.

V. CONCLUSION

Based on the foregoing discussion, the Appellants respectfully requests that the Examiner's final rejection of claims 1-20 be reversed by the Board, and that the application be allowed to issue with all pending claims 1-20. Any questions or suggestions regarding this Appeal Brief should be directed to the undersigned attorney for the Appellants at the telephone number listed below or by email to the email address listed below.

Respectfully submitted,

The Go Daddy Group, Inc.

Date: 1/16/2008

/Chris A. Watt Reg.# 60,947/
Chris A. Watt
Attorney for the Appellants

The Go Daddy Group, Inc.
14455 N. Hayden Road, Suite 219
Scottsdale, AZ 85260
480.624.2510
cwatt@godaddy.com

Claims Appendix

1. A reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar, comprising:

A) means for accepting a plurality of Resellers into a reseller program;

B) means for creating a registrar web site for registering domain names with an appropriate Registry;

C) means for allowing a plurality of Customers to register one or more domain names via the registrar web site, wherein at least one of the plurality of Customers was guided to the registrar web site from actions by one of the plurality of Resellers;

D) means for collecting a fee from each Customer that registers a domain name; and

E) means for compensating each Reseller that guided a Customer to the registrar web site that registered a domain name.

2. The reseller program of claim 1, wherein the registrar web site has the ability to accept domain names from the Customers, accept information regarding the Customers, check on availability of the domain names, collect a fee from the Customers, register available domain names for the Customers and compensate the plurality of Resellers based on the actions of the Customers.

3. The reseller program of claim 1, wherein the actions by one of the plurality of Resellers include advertisement.

4. The reseller program of claim 1, further including means to register domain names via a proxy service, wherein proxy contact information is made publicly available while the Customer receives legal rights in the domain name.

5. The reseller program of claim 1, wherein the actions by one of the plurality of Resellers include creating a link to the registrar web site from another web site.

6. A reseller program utilizing a computer network for allowing a plurality of Customers to register one or more domain names via a Registrar, comprising:

A) a registrar web site adapted for receiving selected domain names from a plurality of Customers and for registering the selected domain names with an appropriate Registry; and

B) an administration web site adapted for allowing Resellers to enter the reseller program and allowing each Reseller to customize the registrar web site for their Customers.

7. The reseller program of claim 6, wherein the registrar web site has the ability to accept domain names from the Customers, accept information regarding the Customers, check on availability of the domain names, collect a fee from the Customers, register available domain names for the Customers, associate Customers with a Reseller and compensate the plurality of Resellers based on the actions of their associated Customers.

8. The reseller program of claim 6, wherein the administration web site offers the option to the Resellers to receive electronic payments from the Registrar based on activities of the Resellers' Customers.

9. The reseller program of claim 6, wherein the administration web site offers the option to the Resellers to offer registering domain names via a proxy service, wherein proxy contact information is made publicly available while the Customer receives legal rights in the domain name.

10. The reseller program of claim 6, wherein the administration web site offers the option to the Reseller to display a report showing commission payments during selected time periods.

11. A process for allowing a plurality of Customers to register one or more domain names via a reseller program, comprising the steps of:

A)   accepting a plurality of Resellers into a reseller program;

B)   creating a registrar web site for registering domain names with an appropriate Registry;

C)   allowing a plurality of Customers to register one or more domain names via the web site, wherein at least one of the plurality of Customers was guided to the web site from actions by one of the plurality of Resellers;

D)   collecting a fee from each Customer that registers a domain name; and

E)   compensating each Reseller that guided a Customer to the web site that registered a domain name.

12. The process of claim 11, wherein the registrar web site has the ability to accept domain names from the Customers, accept information regarding the Customers, check on availability of the domain names, collect a fee from the Customers, register available domain names for the Customers and compensate the plurality of Resellers.

13. The process of claim 11, further including the step of allowing domain names to be registered via a proxy service having contact information, wherein the proxy service contact information is made publicly available while the Customer receives legal rights in the domain name.

14. The process of claim 11, wherein the actions by one of the plurality of Resellers include placement of the registrar web site in a search engine.

15. The process of claim 11, wherein the actions by one of the plurality of Resellers include creating a link to the Registrar web site from another web site.

16. A process for allowing a plurality of Customers to register one or more domain names via a turnkey reseller program, comprising:

A)   creating a registrar web site adapted for registering domain names with an appropriate Registry;

B)   creating an administration web site adapted for allowing Resellers to enter the turnkey reseller program and allowing each Reseller to customize the registrar web site for their Customers;

C)   registering a Reseller into the turnkey reseller program;

D)   selling products or services to a Customer of the Reseller; and

E)   compensating the Reseller based on the products or services purchased by the Customer.

17. The process of claim 16, wherein the registrar web site has the ability to accept domain names from Customers, accept information regarding Customers, check on availability of the domain names accepted from Customers, collect a fee from Customers, register available domain names for Customers, associate Customers with a Reseller and compensate the plurality of Resellers based on the actions of their associated Customers.

18. The process of claim 16, wherein the administration web site offers the option to the Resellers to receive electronic payments from the Registrar based on activities of their associated Customers.

19. The process of claim 16, wherein the administration web site offers the option to the Resellers to offer registering domain names via a proxy service, wherein proxy contact information is made publicly available while the Customer receives legal rights in the domain name.

20. The process of claim 16, wherein the administration web site offers the option to the Reseller to display a report showing commission payments during selected time periods.

Evidence Appendix

None.

Related Proceedings Appendix

None.